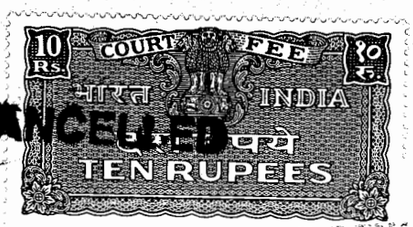

(3)

SINGLE BENCH

1

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

WRIT PETITION NO.2028 OF 2005

PETITIONER :
DEFENDANT:

Kishore Chandra Bhoi, aged about 64 years, son of Shri S.S.Bhoi, resident of Bajarang Chowk, Mathpara, Raipur, Tahsil and District Raipur.

Versus

RESPONDENTS:
PLAINTIFF

Smt. Leela Sahu, aged about 44 years, w/o Shri Dutiaram Sahu, resident of Bajarang Chowk, Mathpara, Mahamaya Mandir Ward, Raipur, Tahsil and District Raipur.

P.R. No. 1982/05
Presented by Shri S.K. Jain
dated 02/05/05

WRIT PETITION UNDER ARTICLE 227 OF THE

CONSTITUTION OF INDIA

XI-HC-22

(38)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.No. 2023/05 **सन्** 200

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	13-6-2005 Shri H.S. Patel, counsel for the petitioner. The petitioner has preferred this writ petition under Article 227 of the Constitution of India questioning the legality, propriety and correctness of the order dated 18-11-2004 passed by the 6th Civil Judge, Class-I, Raipur whereby the learned Civil Judge after determining the rent of the disputed premises under Section 13 (2) of the Chhattisgarh Accommodation Control Act, directed the petitioner herein to deposit the rent in the Court @ Rs.400/- per month. It was further directed that the rent deposited by the petitioner herein/defendant in the suit, the plaintiff shall not be entitled to withdraw the same till the disposal of the suit and also questioning the legality, propriety and correctness of the order dated 26-2-2005 passed by the learned Civil Judge whereby it has been ordered that if the petitioner has not deposited the amount in pursuance of the Court's order, then he will not be entitled for the protection under Section 12 of the Chhattisgarh Accommodation Control Act. I have heard learned counsel for the petitioner. Learned counsel for the petitioner argued that the petitioner herein took the disputed premises on rent from one Shri Pradhumna Kumar Guha and thereafter Shri Pradhumna Kumar Guha entered into an agreement to sell the same to the petitioner herein but the sale deed was	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

not executed. However, respondent herein/plaintiff in the suit in collusion with said Shri Pradhumna Kumar Guha and Pavitra Kumar Guha purchased the disputed property and got executed the sale deed on 29-10-99 through which the respondent herein has not acquired the title. The petitioner herein filed a suit against Pavitra Kumar Guha and respondent herein for declaration and permanent injunction, therefore, in the circumstances, the petitioner herein is not a tenant of respondent, as such respondent is not entitled to receive the rent, therefore, impugned orders passed by the Civil Judge are illegal.

Having heard learned counsel for the petitioner on the question of admission, I have perused the impugned orders as also relevant documents. It is admitted position that respondent herein had purchased the disputed premises on 29-10-99 from one Shri Pavitra Kumar Guha through registered sale deed for consideration of Rs.4 lakhs and thereafter she claimed rent from the petitioner herein. On failing to pay the rent by the petitioner respondent herein filed a suit for eviction and arrears of rent and in that suit vide impugned order dated 18-11-2004 the learned trial Court under Section 13 (2) of the Act directed the petitioner herein to deposit the rent @ Rs.400/- per month which the petitioner herein has failed to deposit the same. Consequently, the order dated 26-2-2005 has been passed by the learned Civil Judge that if the petitioner herein fails to deposit the rent as directed by the Court, then he will not

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

be entitled for the protection under Section 12 of the Chhattisgarh Accommodation Control Act. The respondent herein has filed the eviction suit against the petitioner herein on the ground that she has purchased the disputed premises from Pavitra Kumar Guha from whom the petitioner herein took the premises in question on rent and the petitioner has denied the relationship of landlord and tenant between him and respondent. As the respondent has filed the suit claiming ownership of the disputed property on the basis of purchase of the said disputed property on 29-10-99, therefore, the trial Court has rightly directed the petitioner herein to deposit the rent @ Rs.400/- per month which he failed to deposit, therefore, the trial Court has rightly ordered that the petitioner herein will not be entitled for the protection under Section 12 of the Chhattisgarh Accommodation Control Act. In suit for eviction filed by party claiming himself to be the landlord and tenant to the other party, then if Court is prima facie satisfied with the pleading of plaint, in that case, the Court is required to order the defendant to deposit rent, and if defendant does not deposit rent as directed by the Court and claims that he is not tenant of plaintiff, in that case defendant is not entitled for protection under Section 12 of the Act. However, plaintiff is under obligation to prove the relation of landlord and tenant. If the plaintiff fails to establish the same, then his suit is bound to be dismissed.

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(५१)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	In the circumstances, I do not find any illegality or infirmity in the impugned orders passed by the learned Civil Judge, therefore, the petition is liable to be dismissed and it is accordingly dismissed. Consequently, M.(W.)P. No.1604/2005 and I.A. No.3803/2005 also stand disposed of. **Sd/-** **L.C. Bhadoo** **Judge**	

Barve

(पीछे देखिये)